



**LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS
7500 ODAWA CIRCLE, HARBOR SPRINGS, MI 49740**

Tribal Council Travel Report Narrative

Name:	Julie Shananaquet, TC Member	Date:	February 28, 2014
Training:	National Judicial College Tribal Code Development TLOA, VAWA & Non-Indians	Date:	February 25-26, 2014

I respectfully submit this report to my fellow tribal council members and the citizens of LTBB.

This report represents my opinion of the materials presented at the above stated training and will include an overall summary of the issues which remained to be the constants brought forward throughout the training.

Day 1 (Monday) – Travel Day 02/24/14. Arrived at Pellston Airport at 11:30 a.m. with check in at final destination 11:30 p.m.

Day 2 (Tuesday) – Training began at 8:00 a.m. and the presenter of the day was Addie Rolnick, Assistant Professor, William S. Boyd School of Law, University of Nevada.

The day's discussion was fast paced and covered a lot of territory associated with the passing of the Tribal Law and Order Act of 2010 (TLOA), which expanded on the Indian Civil Rights Act giving Tribes the ability to increase sentences of 1 year to 3 years, with a "stacked" sentence up to 9 years (when multiple charges exist) and to increase fines from \$5,000. To \$15,000, and added additional procedural protections such as: right to counsel, law-trained judges, publicly available criminal laws and record of proceedings.

Limited discussion occurred regarding PL 280 Tribes and the broad effect TLOA has on these Tribes.

Shortly after the passage of the TLOA, Public Law 113-4, Violence Against Women Reauthorization Act of 2013 was passed which restored special domestic violence criminal jurisdiction over "all persons", but is limited to certain acts of domestic violence or dating violence where either the victim or the defendant is Indian and has ties to the tribe. This does not include prosecution of perps committing rape outside of a domestic situation.

A Pilot project opportunity was offered to interested Tribes, of which 3 Tribes currently participate. VAWA has raised a lot of issues in Indian country which may be the reason why several tribes are reserving their right and ability to implement this into their individual tribal laws. With all the newly required Due Process Protections required with implementation of VAWA, such as

impartial jury not excluding non-Indians, legal counsel for persons who are looking at or even has the potential of jail time as part of sentencing, “law” trained judges (gray area), access to all written documentation such as laws and notices associated with a court proceeding and housing of inmates.

A lengthy discussion occurred regarding jury selection since VAWA requires inclusion of non-Indian jurors and what action can a tribe take against a non-Indian refusing to participate in a tribal proceeding.

Further discussion included verification and definition of “Indian” as not all persons are either enrolled with a federally recognized tribe, blood degree is undetermined or verified, descendancy and Indians of state historic tribes.

We briefly discussed avenues for handling non-Indians in a tribal court and the importance to including process and procedures in tribal codes. Suggestion was made for Civil remedies, which included: Fines, Restitution, Community Service, Forfeiture, Exclusion/Banning and Contempt. Civil remedy leaves room for creativity of incorporating traditions.

A few of the participants believed that there was a concentration on incarceration and not enough on rehabilitation and healing.

Professor Rolnick expressed the importance of writing thorough codes, including criminal procedure code and evidence code. Use language that permits flexibility but does not include any criminal sanctions and map out codes to insure that compliancy and function.

Day 3 (Wednesday) Training began at 8:00 a.m. and the presenter of the day was Jan Morris, Court Administrator, Gila River Indian Community Court.

The second day of training was much more interactive, Mr. Morris continued with previous day's discussion of the importance of transparency with tribal codes and laws and the pitfalls and challenges of implementation of TLOA/VAWA. One major challenge is financing all the required changes associated with implementation. Housing of prisoners, additional staff requirements for review and creation of new codes, additional staffing for the court, lawyers for defendants/public defenders office/Advocate Office, more judges, and monies associated with jury summons and jury pay. Mr. Morris brought up tribes having their own tribal bar organization to license citizens as representatives and the fight that may ensue with federal courts recognizing licenses issued by tribal bar organizations. Further discussion included creating a Judicial Discipline Body/Commission to investigate allegations of judicial misconduct, address violations of the Code of Judicial conduct or to investigate disability of judges. Seek funding from private sources to assist in expanding tribal court systems.

Discussion was again raised on the jury selection process. A couple of the attendees stated that they did not want non-indians in the tribal court system nor did they want to pay for their legal counsel or incarceration if found guilty. Some attendees believed that too much attention was given to incarceration instead of rehabilitation and healing. Special note of interest, Tribes can determine how many people constitute a jury and jury does not have to be a unanimous vote. Wording that may assist in the jury selection process is to include wording that gives a radius for jury selection.

Another requirement needing attention is “Publicly available tribal criminal laws and rules...” Posting on line does not mean that all citizens have access. Again this will be costly for a tribe to

send out written notice.

Most important is tribal community involvement. Hold as many community meetings as possible so that your tribal citizens know and understand the new laws and codes of the land.

Personal Observation:

Many tribes have not moved in the direction of implementing VAWA due to costs associated with housing inmates, and court expansions both facility and staffing and having non-indians in tribal court rooms.

Day 4 (Thursday) – Travel Day 02/27/14. Departed for Airport at 4:30 a.m. and arrived at Pellston Airport approximately 9:50 p.m. After luggage pick up, arrived home at 10:15 p.m.